

SALE OF RESERVED MINERAL RIGHTS IN CERTAIN
LANDS IN CALIFORNIA

JUNE 22, 1970.—Ordered to be printed

Mr. Moss, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany H.R. 3908]

The Committee on Interior and Insular Affairs, to which was referred the bill (H.R. 3908) for the relief of Elizabeth B. Borgnino having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

Committee action in ordering H.R. 3908 reported favorably was unanimous, and no objection from the executive branch or any other source has been heard. The measure was sponsored by Congressman Cohelan and supported in the committee hearing by Senator Cranston of California.

PURPOSE OF BILL

H.R. 3908 directs the Secretary of the Interior to convey to the surface owner by quitclaim deed, for fair market value and payment of the costs of conveyance, the mineral interests reserved by the United States in tracts of land totaling 120 acres in Southern California.

The surface owner is Mrs. Elizabeth B. Borgnino, of Berkeley, Calif. The Federal reservation of the minerals is a cloud on title and is preventing the obtaining of financing for development for residential purposes, its highest and best use.

BACKGROUND OF PROPOSED LEGISLATION

The lands involved in H.R. 3908 were patented under the Stockraising Homestead Act of December 29, 1916. Section 9 of that act requires a reservation to the United States of coal and other minerals in land so patented. These lands were patented on September 8, 1930, and contained the required reservation.

The lands consist of two adjacent but not adjoining tracts, one of 115 and the other of 5 acres. They are located about 44 miles from downtown Los Angeles, and 20 to 25 miles from a new development just outside of Palmdale known as Los Angeles Lake. A large, elaborate, and highly developed subdivision is located in section 7 of the same township as the subject tracts. There is a neighborhood of ex-urban estates in part of section 4, the same section in which these tracts are located. That area is not accessible from the subject lands, however, because of steep cliffs. The only access to the lands covered by H.R. 3908 is by way of a narrow gravel road. The subject lands are vacant and unimproved.

Although residential development is approximately $2\frac{1}{2}$ miles distant at this time, it is rapidly moving toward these two tracts. Several parcels in the immediate vicinity have subdivisions in the planning or construction stage at this time. This development has resulted in substantial increases in property values. The taxes on both tracts were increased more than 500 percent in 1966.

The 115-acre tract presently is in escrow to be sold for subdivision purposes but the sale cannot be consummated because of the outstanding mineral reservation. H.R. 3908 would remove that reservation and permit the lands to be devoted to their highest and best use; that is, subdivision development. The prospective purchasers own an adjoining parcel of 451 acres, and they proposed to develop the entire acreage as a unit.

The Geological Survey has made a detailed study of the mineral potential of these two tracts and has reported that the prospects for obtaining oil and gas production are not favorable. The Survey has also reported that the land is not valuable for other minerals.

There are four outstanding oil and gas leases on these lands. Conveyance of the reserved minerals, as directed by H.R. 3908, will be subject to outstanding leases and the rights of the present lessees will not be diminished. One of the developers is a lease owner. The committee was assured no attempt at any mineral development is contemplated, but that such development could be carried on without disturbing the surface through directional drilling.

Although the lands do not appear to be valuable for oil and gas or for other minerals, no conveyance will be made until the mineral values have been appraised and payment therefore made at fair market value. The grantee, Mrs. Borgnino, will also bear any administrative expenses, including appraisal, filing, and recording fees.

Although no minimum payment is provided for in H.R. 3908, the committee feels, in view of past practices and recommendations in similar legislation, a minimum payment of at least \$200 is just and proper. There is no limitation on the maximum payment as this will be based upon the appraised value of the minerals and the administrative costs to the Government.

DEPARTMENTAL RECOMMENDATION

The favorable report of the Department of the Interior to the House Interior Committee is set forth below. The House adopted the amendments recommended by the Department, and the Senate Interior Committee concurs.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 12, 1969.

HON. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on H.R. 3908, a bill for the relief of Elizabeth B. Borgnino.

If amended as set forth below, we have no objection to enactment of the bill.

H.R. 3908 directs the Secretary of the Interior to convey to Elizabeth B. Borgnino, of Berkeley, Calif., by quitclaim deed, without monetary consideration, all rights of the United States, except the rights of the lessees under leases from the United States executed on or before the effective date of this act, to enter upon the surface or into the top 500 feet of the subsurface of a tract of land in section 4, T. 4 N., R. 15 M., San Bernardino meridian, Los Angeles County, Calif., containing 120 acres, more or less.

The lands involved in H.R. 3908 were patented under the Stock-raising Homestead Act of December 29, 1916. Section 9 of that act (39 Stat. 864; 43 U.S.C. 299) requires a reservation of coal and other minerals in lands so patented. The patent issued on September 8, 1930, to Evan S. White (LA-043643) contained the required reservation.

The lands are about 44 miles from downtown Los Angeles, and 20 to 25 miles from a new development just outside of Palmdale known as Los Angeles Lake. A large, elaborate, and highly developed subdivision called American Beauty House is located in section 7 of this township. There is a neighborhood of ex-urban estates in the NW¼ and the N½SW¼ of section 4. That area is not accessible from the subject lands, however, because of steep cliffs. The only access to the lands covered by the bill is from the south up the Plum Canyon Road, a narrow gravel road which has received little maintenance of late. The subject lands are vacant and unimproved. Vegetation consists primarily of chamise and sage. Yucca and buckwheat are also present, as are scattered annual grasses and forbs.

Mrs. Borgnino informs us that the lands described in the bill are adjacent to one another and consist of 115 acres and 5 acres, respectively. Both parcels are unimproved. She states that, although residential development is approximately 2½ miles from the property at this time, development is rapidly moving toward her property and that several parcels in this immediate area have subdivisions in the planning and/or construction stage at this time. She points out that this development has resulted in an increase of property values and that in 1966 the real property taxes on both parcels were increased more than 500 percent over the previous year.

Mrs. Borgnino further states that the larger parcel is in escrow to be sold and that she has been advised that the sale cannot be consummated because lenders will not finance a subdivision development so long as outstanding surface mineral rights exist.

Mr. Richard S. Gunther informs us that he and his associate, Stanford Tabb, have an agreement to purchase part of the subject lands. The property in escrow adjoins a parcel of 451 acres on which he and his associate have prepared detailed subdivision plans. He proposes to develop the entire project as quickly as warranted by current market conditions. Mr. Gunther states that no exploitation of the minerals is contemplated.

The following oil and gas leases are outstanding on the property:

1. Riverside 02218-J:NE $\frac{1}{4}$ SE $\frac{1}{4}$, sec. 4, T. 4 N., R. 15 W., SBM. This is held by assignment of January 1, 1968, by Stanford Tabb.
2. Riverside 02218-F:W $\frac{1}{2}$ SW $\frac{1}{4}$, sec. 4, T. 4 N., R. 15 W., SBM. Lease issued to Elvira Nelson effective October 1, 1963.
3. R. 1856:SW $\frac{1}{4}$ SE $\frac{1}{4}$, sec. 4, T. 4 N., R. 15 W., SBM. Lease issued to Helen Moore, effective December 1, 1968.
4. R. 1586:SW $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$, sec. 4, T. 4 N., R. 15 W., and section 3, lot 6. Lease issued to Blanche Lane, effective September 1, 1968.

The Geological Survey of this Department reports that prospects for obtaining oil or gas production on the land are not favorable, and that the land is not valuable for other minerals.

This Department has generally interposed no objection to the conveyance of a reserved mineral interest to the surface owner of the land if it is shown that the reserved mineral interest militates against the intensive development of the land, and if the surface owner pays the fair market value of the mineral interest, plus administrative costs. However, oil and gas can be produced from land with little or no disruption to the surface through directional or slant drilling and production does not necessarily militate against intensive development, for example, oil and gas development in the city of Los Angeles. For this reason, this Department has generally objected to the disposal of oil and gas rights where the lands are considered to be potentially valuable for such mineral resources.

It was in the light of these considerations that the Geological Survey made a detailed study of the prospects for obtaining gas and oil production on the land subject to H.R. 3908, with the results referred to above. The Geological Survey concluded that only thick nonmarine strata underlie the land; no oil shows of importance have been reported in nearby wells; and no known favorable structural or stratigraphic feature in which oil might be trapped is present.

In the circumstances, we recommend that H.R. 3908 be amended to provide for the conveyance of the U.S. mineral reservation, such conveyance to be made at fair market value as determined by the Secretary of the Interior, with Mrs. Borgnino's assuming the administrative costs of the conveyance.

This could be achieved if section 1 of the bill were amended to read as follows:

That the Secretary of the Interior shall, notwithstanding any provisions of the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), as amended, (30 U.S.C. 181-263), or any other law, convey by quitclaim deed, for the fair market value thereof, such value to be determined by the Secretary, to Elizabeth B. Borgnino of 32 Edwin Drive, Berkeley, California 94707, the coal and other minerals reserved to the

United States in the real property described in section 2 of this Act. Such conveyance shall be subject to leases executed on or before the effective date of this Act. Elizabeth B. Borgnino shall bear any administrative expenses, including appraisal, filing, and recording fees, arising from the conveyance.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

RUSSELL E. TRAIN,
Under Secretary of the Interior.

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